

AMENDED IN SENATE FEBRUARY 19, 1998
AMENDED IN ASSEMBLY JANUARY 28, 1998
AMENDED IN ASSEMBLY JANUARY 15, 1998
AMENDED IN ASSEMBLY JANUARY 5, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1613

Introduced by Assembly Members Scott and Strom-Martin
(Principal coauthor: Assembly Member Lempert)
(Coauthors: Assembly Members Aguiar, Alquist, Cardenas,
Davis, Figueroa, Firestone, Hertzberg, Keeley, Machado,
Mazzoni, Morrissey, Prenter, Sweeney, Villaraigosa,
Wildman, and Wright)
(Coauthors: Senators Costa, Karnette, Schiff, and Solis)

June 3, 1997

An act to ~~add Section 17204 to the Revenue and Taxation Code, relating to~~ *amend Section 17140 of, and to add Sections 17053.51 and 17204 to, the Revenue and Taxation Code, relating to* taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, Scott. Personal income taxes: education.

The Personal Income Tax Law incorporates by reference various provisions of the federal Internal Revenue Code as enacted as of a specified date.

~~This bill would enact the Higher Education Affordability Act which would, pursuant to certain legislative findings and declarations, state the intent of the Legislature to conform the Personal Income Tax Law to certain recent changes in federal income tax laws by placing into the Personal Income Tax Law certain credits for higher education expenses and specified federal exclusions from income of benefits from qualified state tuition programs. This bill would make certain recent changes in federal income tax laws, relating to a deduction for interest paid on education loans, applicable for specified taxable years.~~

This bill would enact the Higher Education Affordability Act which would make certain recent changes in federal income tax laws applicable, with specified exceptions and modifications, for purposes of the Personal Income Tax Law with respect to the HOPE and lifetime learning credits, qualified state tuition programs, and the deduction for interest paid on education loans.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the Higher Education Affordability Act.

3 ~~SEC. 2. (a) It is the intent of the Legislature in~~
4 ~~enacting this act to make higher education more~~
5 ~~accessible to middle and lower income Californians by~~
6 ~~conforming to recent changes in federal tax laws by doing~~
7 ~~all of the following:~~

8 ~~(1) Providing a credit against state personal income~~
9 ~~tax:~~

10 ~~(A) In the amount of 25 percent of the second one~~
11 ~~thousand dollars (\$1,000) of higher education expenses~~
12 ~~for a middle or lower income student who is enrolled on~~
13 ~~at least a half-time basis in his or her first two years of~~
14 ~~higher education.~~

15 ~~(B) In the amount of 5 percent of the first five~~
16 ~~thousand dollars (\$5,000) of higher education expenses.~~

~~(2) Excluding from the gross income of an individual taxpayer certain amounts provided through qualified state tuition programs.~~

~~(b) The Legislature finds and declares all of the following:~~

~~(1) It is in the best interest of all California taxpayers and all Californians to enact those tax measures specified in subdivision (a), complementing recent changes in federal tax law, in order to provide meaningful and adequate opportunities to all persons who desire to become more productive through higher education.~~

~~(2) Those tax measures will help ensure that California's rapidly increasing college-age population will have the financial resources that are necessary to become fully contributing citizens.~~

~~SEC. 3.—~~

SEC. 2. Section 17053.51 is added to the Revenue and Taxation Code, to read:

17053.51. For each taxable year beginning on or after January 1, 1998, there shall be allowed as a credit against the "net tax," as defined by Section 17039, an amount equal to the amount allowed by Section 25A of the Internal Revenue Code, as added by Section 201 of the Taxpayer Relief Act of 1997 (P.L. 105-34), modified as follows:

(a) (1) Section 25A(b)(1)(A) of the Internal Revenue Code, allowing a 100 percent HOPE Scholarship Credit for qualified tuition and related expenses that do not exceed one thousand dollars (\$1,000) shall not apply.

(2) Section 25A(b)(1)(B) of the Internal Revenue Code, allowing a 50 percent HOPE Scholarship Credit for such expenses so paid as exceeds one thousand dollars (\$1,000) but does not exceed the applicable limit, shall be modified by substituting "25 percent" for "50 percent."

(b) Section 25A(c)(1) of the Internal Revenue Code, relating to Lifetime Learning Credit, shall be modified by substituting "5 percent" for "20 percent."

(c) Any amount that is described in subdivision (a) for which a federal HOPE Scholarship Credit is claimed shall be treated as if the amount were allowed for purposes of

1 Section 25A(c)(2)(A), relating to coordination with
2 HOPE Scholarship Credit.

3 SEC. 3. Section 17140 of the Revenue and Taxation
4 Code is amended to read:

5 17140. (a) For purposes of this section, the following
6 terms have the following meanings as provided in the
7 Golden State Scholarshare Trust Act—~~(Art. (Article 19~~
8 ~~(commencing with Section 69980), Ch. 2, Pt. 42, Ed. C.)~~
9 ~~of Chapter 2 of Part 42 of the Education Code)~~:

10 (1) “Beneficiary” has the meaning set forth in
11 subdivision (c) of Section 69980 of the Education Code.

12 (2) “Benefit” has the meaning set forth in subdivision
13 (d) of Section 69980 of the Education Code.

14 (3) “Participant” has the meaning set forth in
15 subdivision (h) of Section 69980 of the Education Code.

16 (4) “Participation agreement” has the meaning set
17 forth in subdivision (i) of Section 69980 of the Education
18 Code.

19 (5) “Scholarshare trust” has the meaning set forth in
20 subdivision (f) of Section 69980 of the Education Code.

21 (b) Except as otherwise provided in subdivision (c),
22 gross income of a beneficiary or a participant does not
23 include any of the following:

24 (1) Any distribution or earnings under a Scholarshare
25 trust participation agreement, as provided in Article 19
26 (commencing with Section 69980) of Chapter 2 of Part 42
27 of the Education Code.

28 (2) ~~Contributions~~ Any contribution to the
29 Scholarshare trust on behalf of a beneficiary shall not be
30 includable as gross income of that beneficiary.

31 (c) (1) Any distribution under a Scholarshare trust
32 participation agreement shall be includable in the gross
33 income of the distributee in the manner as provided
34 under Section 72 of the Internal Revenue Code, as
35 modified by Section 17085, to the extent not excluded
36 from gross income under ~~any other provision of this part.~~
37 For purposes of applying Section 72 of the Internal
38 Revenue Code, the following apply:

1 (A) All Scholarshare trust accounts of which an
2 individual is a beneficiary shall be treated as one account,
3 except as otherwise provided.

4 (B) All distributions during a taxable year shall be
5 treated as one distribution.

6 (C) The value of the participation agreement, income
7 on the participation agreement, and investment in the
8 participation agreement shall be computed as of the close
9 of the calendar year in which the taxable year begins.

10 (2) A contribution by a for-profit or nonprofit entity
11 for the benefit of an owner or employee of that entity or
12 a beneficiary whom the owner or employee has the
13 power to designate, including the owner or employee's
14 minor children, shall be included in the gross income of
15 that owner or employee in the year the contribution is
16 made.

17 (3) For purposes of this subdivision, "distribution"
18 includes any benefit furnished to a beneficiary under a
19 participation agreement, as provided in Article 19
20 (commencing with Section 69980) of Chapter 2 of Part 42
21 of the Education Code.

22 (4) (A) Paragraph (1) shall not apply to that portion
23 of any distribution that, within 60 days of distribution, is
24 transferred to the credit of another beneficiary under the
25 Scholarshare trust who is a "member of the family," as
26 that term is used in Section 2032A(e)(2) of the Internal
27 Revenue Code, of the former beneficiary of that
28 Scholarshare trust.

29 (B) Any change in the beneficiary of an interest in the
30 Scholarshare trust shall not be treated as a distribution for
31 purposes of paragraph (1) if the new beneficiary is a
32 "member of the family," as that term is used in Section
33 2032A(e)(2) of the Internal Revenue Code, of the former
34 beneficiary of that Scholarshare trust.

35 (d) For purposes of determining adjusted gross
36 income, Section 62(a)(9) of the Internal Revenue Code
37 shall not apply to any amount forfeited upon distribution
38 of an account created pursuant to a participation
39 agreement.

1 *(e) The amendments made to the Internal Revenue*
2 *Code by Section 211 of the Taxpayer Relief Act of 1997*
3 *(P.L. 105-34) shall apply to taxable years beginning on or*
4 *after January 1, 1998.*

5 SEC. 4. Section 17204 is added to the Revenue and
6 Taxation Code, to read:

7 17204. Section 221 as added to the Internal Revenue
8 Code by Section 202 of the Taxpayer Relief Act of 1997
9 (P.L. 105-34), relating to interest on education loans, shall
10 apply for taxable years beginning on or after January 1,
11 1998.

12 ~~SEC. 4.~~

13 SEC. 5. This act provides for a tax levy within the
14 meaning of Article IV of the Constitution and shall go into
15 immediate effect.

